

## LEGISLATIVE BILL 284

Approved by the Governor March 22, 2005

Introduced by Stuthman, 22; Baker, 44; Cunningham, 40

AN ACT relating to motor vehicles; to amend sections 60-301, 60-354, 60-356, and 75-386, Reissue Revised Statutes of Nebraska; to update references to the International Registration Plan; to change provisions relating to trip permits; to eliminate an obsolete duty of the Division of Motor Carrier Services; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 60-301, Reissue Revised Statutes of Nebraska, is amended to read:

60-301. For purposes of Chapter 60, article 3, unless the context otherwise requires:

(1) Agricultural products means field crops and horticultural, viticultural, forestry, nut, dairy, livestock, poultry, bee, and farm products, including sod grown on the land owned or rented by the farmer, and the byproducts derived from any of them;

(2) Apportionable vehicle means any vehicle used or intended for use in two or more member jurisdictions that allocate or proportionally register vehicles and used for the transportation of persons for hire or designed, used, or maintained primarily for the transportation of property. Apportionable vehicle does not include any recreational vehicle, vehicle displaying restricted plates, city pickup and delivery vehicle, bus used in the transportation of chartered parties, or government-owned vehicle. Such vehicle shall either (a) be a power unit having two axles and a gross vehicle weight or registered gross vehicle weight in excess of twenty-six thousand pounds, (b) be a power unit having three or more axles, regardless of weight, or (c) be used in combination when the weight of such combination exceeds twenty-six thousand pounds gross vehicle weight. Vehicles or combinations of vehicles having a gross vehicle weight of twenty-six thousand pounds or less and two-axle vehicles and buses used in the transportation of chartered parties may be proportionally registered at the option of the registrant;

(3) Automobile liability policy means liability insurance written by an insurance carrier duly authorized to do business in this state protecting other persons from damages for liability on account of accidents occurring subsequent to the effective date of the insurance arising out of the ownership of a motor vehicle (a) in the amount of twenty-five thousand dollars because of bodily injury to or death of one person in any one accident, (b) subject to the limit for one person, in the amount of fifty thousand dollars because of bodily injury to or death of two or more persons in any one accident, and (c) in the amount of twenty-five thousand dollars because of injury to or destruction of property of other persons in any one accident. An automobile liability policy shall not exclude liability coverage under the policy solely because the injured person making a claim is the named insured in the policy or residing in the household with the named insured;

(4) Base jurisdiction means, for purposes of fleet registration, the jurisdiction where the registrant has an established place of business, where miles or kilometers are accrued by the fleet, and where operational records of such fleet are maintained or can be made available. For such purpose, there is hereby adopted and incorporated by reference section 1602 of Article XVI, International Registration Plan, adopted by the American Association of Motor Vehicle Administrators, as revised October 1, ~~2001~~ 2004;

(5) Cabin trailer means any vehicle without motive power designed for living quarters and for being drawn by a motor vehicle and not exceeding one hundred two inches in width, forty feet in length, or thirteen and one-half feet in height, except as provided in subdivision (2)(k) of section 60-6,288;

(6) Commercial trailer means any trailer or semitrailer which has a gross weight, including load thereon, of more than nine thousand pounds and which is designed, used, or maintained for the transportation of persons or property for hire, compensation, or profit or designed, used, or maintained primarily for the transportation of property. Commercial trailer does not include farm trailers, fertilizer trailers, utility trailers, or cabin trailers;

(7) Commercial vehicle means any motor vehicle used or maintained for the transportation of persons or property for hire, compensation, or

profit or designed, used, or maintained primarily for the transportation of property and does not include farm trucks;

(8) Evidence of insurance means evidence of a current and effective automobile liability policy;

(9) Farm trailer means any trailer or semitrailer (a) used exclusively to carry a farmer's or rancher's own supplies, farm equipment, and household goods to or from the owner's farm or ranch, (b) used by the farmer or rancher to carry his or her own agricultural products, livestock, and produce to or from storage and market and attached to a passenger car, commercial-licensed vehicle registered for sixteen tons or less, or farm-licensed vehicle, or (c) used by a farmer or rancher to carry his or her own agricultural products, livestock, and produce to and from market. Such trailers shall carry on their license plate, in addition to the registration number, the letter X. Farm trailer does not include a trailer so used when attached to a farm tractor;

(10) Farm trucks means trucks, including combinations of trucks or truck-tractors and trailers or semitrailers, of farmers or ranchers (a) used exclusively to carry a farmer's or rancher's own supplies, farm equipment, and household goods to or from the owner's farm or ranch, (b) used by the farmer or rancher to carry his or her own agricultural products, livestock, and produce to or from storage or market, (c) used by farmers or ranchers in exchange of service in such hauling of such supplies or agricultural products, livestock, and produce, or (d) used occasionally to carry camper units, to pull boats or cabin trailers, or to carry or pull museum pieces or vehicles of historical significance, without compensation, to events for public display or educational purposes. Such trucks may carry on their license plates, in addition to the registration number, the designation farm and the words NOT FOR HIRE;

(11) Fertilizer trailer means any trailer, including gooseneck applicators or trailers, designed and used exclusively to carry or apply agricultural fertilizer or agricultural chemicals and having a gross weight, including load thereon, of twenty thousand pounds or less. Such trailers shall carry on their license plate, in addition to the registration number, the letter X;

(12) Film vehicle means any motor vehicle or trailer used exclusively by a nonresident production company temporarily on location in Nebraska producing a feature film, television commercial, documentary, or industrial or educational videotape production;

(13) Fleet means one or more apportionable vehicles;

(14) Highways means public streets, roads, turnpikes, parks, parkways, drives, alleys, and other public ways used for the passage of road vehicles;

(15) Injurisdiction distance means total miles or kilometers operated (a) in the State of Nebraska during the preceding year by the motor vehicle or vehicles registered and licensed for fleet operation and (b) in noncontracting reciprocity jurisdictions by fleet vehicles that are base-plated in Nebraska;

(16) Local truck means a truck and combinations of trucks, truck-tractors, or trailers or semitrailers operated solely within an incorporated city or village or within ten miles of the corporate limits of the city or village in which they are owned, operated, and registered. Such trucks shall carry on their license plates, in addition to the registration number, the designation of local truck;

(17) Motor vehicle means any vehicle propelled by any power other than muscular power except (a) mopeds as defined in section 60-637, (b) farm tractors, (c) self-propelled equipment designed and used exclusively to carry and apply fertilizer, chemicals, or related products to agricultural soil and crops, agricultural floater-spreader implements as defined in section 60-6,294.01, and other implements of husbandry designed for and used primarily for tilling the soil and harvesting crops or feeding livestock, (d) power unit hay grinders or a combination which includes a power unit and a hay grinder when operated without cargo, (e) vehicles which run only on rails or tracks, (f) off-road designed vehicles, including, but not limited to, golf carts, go-carts, riding lawnmowers, garden tractors, all-terrain vehicles as defined in section 60-6,355, snowmobiles registered or exempt from registration under sections 60-6,320 to 60-6,346, and minibikes as defined in section 60-636, (g) road and general-purpose construction and maintenance machinery not designed or used primarily for the transportation of persons or property, including, but not limited to, ditchdigging apparatus, asphalt spreaders, bucket loaders, leveling graders, earthmoving carryalls, power shovels, earthmoving equipment, and crawler tractors, (h) self-propelled chairs used by persons who are disabled, and (i) electric personal assistive mobility devices as defined in

section 60-618.02;

(18) Motorcycle means any motor vehicle, except a tractor, an all-terrain vehicle as defined in section 60-6,355, or an electric personal assistive mobility device as defined in section 60-618.02, having a seat or saddle for use of the rider and designed to travel on not more than three wheels in contact with the ground;

(19) Noncontracting reciprocity jurisdiction means any jurisdiction which is not a party to any type of contracting agreement between the State of Nebraska and one or more other jurisdictions for registration purposes on commercial vehicles and, as a condition to operate on the highways of that jurisdiction, (a) does not require any type of vehicle registration or allocation of vehicles for registration purposes or (b) does not impose any charges based on miles operated, other than those that might be assessed against fuel consumed in that jurisdiction, on any vehicles which are part of a Nebraska-based fleet;

(20) Owner means a person, firm, or corporation which holds a legal title of a vehicle. If (a) a vehicle is the subject of an agreement for the conditional sale thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee, (b) a vehicle is subject to a lease of thirty days or more with an immediate right of possession vested in the lessee, or (c) a mortgagor of a vehicle is entitled to possession, then such conditional vendee, lessee, or mortgagor shall be deemed the owner for purposes of Chapter 60, article 3. For such purpose, there are hereby adopted and incorporated by reference the provisions of Article XI, International Registration Plan, adopted by the American Association of Motor Vehicle Administrators, as revised October 1, ~~2001~~ 2004;

(21) Park means to stop a vehicle for any length of time, whether occupied or unoccupied;

(22) Passenger car means a motor vehicle designed and used to carry ten passengers or less and not used for hire;

(23) Proof of financial responsibility has the same meaning as in section 60-501;

(24) Self-propelled mobile home means a vehicle with motive power designed for living quarters;

(25) Semitrailer means any vehicle without motive power designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that some part of its weight and that of its load rests upon or is carried by the towing vehicle;

(26) Suspension of operator's license has the same meaning as in section 60-476.02;

(27) Total fleet distance means the total distance operated in all jurisdictions during the preceding year by the vehicles in such fleet during such year;

(28) Trailer means any vehicle without motive power designed for carrying persons or property and being pulled by a motor vehicle and so constructed that no part of its weight rests upon the towing vehicle;

(29) Transporter means any person lawfully engaged in the business of transporting vehicles not his or her own solely for delivery thereof (a) by driving singly, (b) by driving in combinations by the towbar, fullmount, or saddlemount methods or any combinations thereof, or (c) when a truck or tractor draws a semitrailer or tows a trailer;

(30) Truck means a motor vehicle that is designed, used, or maintained primarily for the transportation of property;

(31) Truck-tractor means any motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load being drawn;

(32) Utility trailer means a trailer having a gross weight, including load thereon, of nine thousand pounds or less attached to a motor vehicle. Such trailers shall carry on their license plate, in addition to the registration number, the letter X; and

(33) Vehicle means any device in, upon, or by which any person or property is or may be transported or drawn upon a public highway except devices moved solely by human power or used exclusively upon stationary rails or tracks.

Sec. 2. Section 60-354, Reissue Revised Statutes of Nebraska, is amended to read:

60-354. Vehicles registered as provided in section 60-356 and vehicles covered under section 404 of Article IV, International Registration Plan, adopted by the American Association of Motor Vehicle Administrators, as revised October 1, ~~2001~~ 2004, which is hereby adopted and incorporated by reference, shall be deemed fully registered in all jurisdictions where

apportioned or granted reciprocity for any type of movement or operation. The registrant must have proper interjurisdiction or intrajurisdiction authority from the appropriate regulatory agency of each jurisdiction of this state if not exempt from regulation by the regulatory agency.

Sec. 3. Section 60-356, Reissue Revised Statutes of Nebraska, is amended to read:

60-356. (1) Any owner engaged in operating a fleet of apportionable vehicles in this state in interjurisdiction commerce may, in lieu of registration of such vehicles under the general provisions of sections 60-301 to 60-344, register and license such fleet for operation in this state by filing a statement and the application required by section 60-361 with the Division of Motor Carrier Services of the Department of Motor Vehicles. The statement shall be in such form and contain such information as the division requires, declaring the total mileage operated by such vehicles in all jurisdictions and in this state during the preceding year and describing and identifying each such vehicle to be operated in this state during the ensuing license year. Upon receipt of such statement and application, the division shall determine the total fee payment, which shall be equal to the amount of fees due pursuant to section 60-361 and the amount obtained by applying the formula provided in section 60-362 to a fee of thirty-two dollars per ton based upon gross vehicle weight of the empty weights of a truck or truck-tractor and the empty weights of any trailer, semitrailer, or combination thereof with which it is to be operated in combination at any one time plus the weight of the maximum load to be carried thereon at any one time, and shall notify the applicant of the amount of payment required to be made. Mileage operated in noncontracting reciprocity jurisdictions by vehicles based in Nebraska shall be applied to the portion of the formula for determining the Nebraska injurisdiction fleet distance.

Temporary authority which permits the operation of a fleet or an addition to a fleet in this state while the application is being processed may be issued upon application to the division if necessary to complete processing of the application.

Upon completion of such processing and receipt of the appropriate fees, the division shall issue to the applicant a sufficient number of distinctive registration certificates which provide a list of the jurisdictions in which the vehicle has been apportioned, the weight for which registered, and such other evidence of registration for display on the vehicle as the division determines appropriate for each of the vehicles of his or her fleet, identifying it as a part of an interjurisdiction fleet proportionately registered. All fees received as provided in this section shall be remitted to the State Treasurer for credit to the Motor Carrier Services Division Distributive Fund.

The vehicles so registered shall be exempt from all further registration and license fees under sections 60-301 to 60-344 for movement or operation in the State of Nebraska except as provided in section 60-361. The proportional registration and licensing provision of this section shall apply to vehicles added to such fleets and operated in this state during the license year except with regard to permanent license plates issued under section 60-361.

The right of applicants to proportional registration under this section shall be subject to the terms and conditions of any reciprocity agreement, contract, or consent made by the division.

When a nonresident fleet owner has registered his or her vehicles on an apportionment basis, his or her vehicles shall be considered as fully registered for both interjurisdiction and intrajurisdiction commerce when the jurisdiction of base registration for such fleet accords the same consideration for fleets with a base registration in Nebraska. Each vehicle of a fleet registered by a resident of Nebraska on an apportionment basis shall be considered as fully registered for both interjurisdiction and intrajurisdiction commerce.

(2) Mileage proportions for interjurisdiction fleets not operated in this state during the preceding year shall be determined by the division upon the application of the applicant on forms to be supplied by the division which shall show the operations of the preceding year in other jurisdictions and estimated operations in Nebraska or, if no operations were conducted the previous year, a full statement of the proposed method of operation.

(3) Any owner complying with and being granted proportional registration shall preserve the records on which the application is made for a period of three years following the current registration year. Upon request of the division, the owner shall make such records available to the division at its office for audit as to accuracy of computation and payments or pay the costs of an audit at the home office of the owner by a duly appointed

representative of the division if the office where the records are maintained is not within the State of Nebraska. The division may enter into agreements with agencies of other jurisdictions administering motor vehicle registration laws for joint audits of any such owner. All payments received to cover the costs of an audit shall be remitted by the division to the State Treasurer for credit to the Motor Carrier Division Cash Fund. No deficiency shall be assessed and no claim for credit shall be allowed for any license registration year for which records on which the application was made are no longer required to be maintained.

(4) If the division claims that a greater amount of fee is due under this section than was paid, the division shall notify the owner of the additional amount claimed to be due. The owner may accept such claim and pay the amount due, or he or she may dispute the claim and submit to the division any information which he or she may have in support of his or her position. If the dispute cannot otherwise be resolved within the division, the owner may petition for an appeal of the matter. The Director of Motor Vehicles shall appoint a hearing officer who shall hear the dispute and issue a written decision. Any appeal shall be in accordance with the Administrative Procedure Act. Upon expiration of the time for perfecting an appeal if no appeal is taken or upon final judicial determination if an appeal is taken, the division shall deny the owner the right to further registration for a fleet license until the amount finally determined to be due, together with any costs assessed against the owner, has been paid.

(5) Every applicant who licenses any vehicles under this section and section 60-361 shall have his or her registration certificates issued only after all fees under such sections are paid and, if applicable, proof has been furnished of payment, in the form prescribed by the director as directed by the United States Secretary of the Treasury, of the federal heavy vehicle use tax imposed by 26 U.S.C. 4481 of the Internal Revenue Code as defined in section 49-801.01.

(6) In the event of the transfer of ownership of any registered motor vehicle or in the case of loss of possession because of fire or theft or because the motor vehicle was wrecked, junked, or dismantled, its registration shall expire, except that if the registered owner applies to the division after such transfer or loss of possession and accompanies the application with the fee of one dollar and fifty cents, he or she may have assigned to another motor vehicle the registration identification of the motor vehicle so transferred or lost. If the assigned motor vehicle has a greater gross weight than the transferred or lost motor vehicle, the owner of the assigned motor vehicle shall additionally pay only the registration fee for the increased gross weight for the remaining months of the registration year based on the factors determined by the division in the original fleet application.

(7) Whenever a Nebraska-based fleet owner files an application with the division to delete a registered motor vehicle from a fleet of registered motor vehicles because of (a) the transfer of ownership or (b) the loss of possession due to fire or theft or because the motor vehicle was wrecked, junked, or dismantled, the registered owner may, by returning the registration certificate or certificates and such other evidence of registration used by the division or, if such certificate or certificates or such other evidence of registration is unavailable, then by making an affidavit to the division of such transfer or loss, receive a refund of the registration fee based upon the number of unexpired months remaining in the registration year. No refund shall be allowed for any fees paid under section 60-361. When such motor vehicle is transferred or lost within the same month as acquired, no refund shall be allowed for such month. Such refund may be in the form of a credit against any registration fees that have been incurred or are, at the time of the refund, being incurred by the registered motor vehicle owner.

(8) Whenever a Nebraska-based fleet owner files an application with the division to delete a registered motor vehicle from a fleet of registered motor vehicles because the vehicle is disabled and has been removed from service, the registered owner may, by returning the registration certificate or certificates and such other evidence of registration used by the division or, in the case of the unavailability of such certificate or certificates or such other evidence of registration, then by making an affidavit to the division of such disablement and removal from service, receive a credit for that portion of the registration fee deposited in the Highway Trust Fund based upon the number of unexpired months remaining in the registration year. No credit shall be allowed for any fees paid under section 60-361. When such motor vehicle is removed from service within the same month in which it was registered, no credit shall be allowed for such month. Such credit may be applied against registration fees for new or replacement vehicles incurred within one year after cancellation of registration of the motor vehicle for

which the credit was allowed. When any such vehicle is reregistered within the same registration year in which its registration has been canceled, the fee shall be that portion of the registration fee provided to be deposited in the Highway Trust Fund for the remainder of the registration year.

(9) In case of addition to the registered fleet during the registration year, the owner engaged in operating the fleet shall pay the proportionate registration fee from the date of the application for the remaining balance of the registration year. The fee for any permanent license plate issued for such addition pursuant to section 60-361 shall be the full fee required by such section, regardless of the number of months remaining in the license year.

(10) In lieu of registration under subsections (1) through (9) of this section, the title holder of record may apply to the division for special registration, to be known as an unladen-weight registration, for any commercial vehicle or combination of vehicles. Such registration shall be valid only for a period of thirty days and shall give no authority to operate the vehicle except when empty. The fee for such registration shall be twenty dollars for each vehicle, which fee shall be remitted to the State Treasurer for credit to the Highway Trust Fund. The issuance of such permits shall be governed by subsection (1) of section 60-305.03.

(11) Any person may, in lieu of registration under subsections (1) through (9) of this section or for other jurisdictions as approved by the director, purchase a trip permit for any nonresident truck, truck-tractor, bus, or truck or truck-tractor combination. Such permit shall be valid for ~~(a) a single trip across or through Nebraska and (b) not longer than a period of~~ seventy-two hours. The fee for such permit shall be twenty-five dollars for each vehicle or combination of vehicles. Such permit shall be available at weighing stations operated by the carrier enforcement division and at various vendor stations as determined appropriate by the carrier enforcement division. The carrier enforcement division shall act as an agent for the Division of Motor Carrier Services in collecting such fees and shall remit all such fees collected to the State Treasurer for credit to the Highway Cash Fund. Trip permits shall be obtained at the first available location whether that is a weighing station or a vendor station. The vendor stations shall be entitled to collect and retain an additional fee of ten percent of the fee collected pursuant to this subsection as reimbursement for the clerical work of issuing the permits.

Sec. 4. Section 75-386, Reissue Revised Statutes of Nebraska, is amended to read:

75-386. The Division of Motor Carrier Services shall:

(1) Foster, promote, and preserve the motor carrier industry of the State of Nebraska;

(2) Protect and promote the public health and welfare of the citizens of the state by ensuring that the motor carrier industry is operated in an efficient and safe manner;

(3) Promote and provide for efficient and uniform governmental oversight of the motor carrier industry;

(4) Promote financial responsibility on the part of motor carriers operating in and through the State of Nebraska;

(5) Administer all provisions of the International Fuel Tax Agreement Act, ~~and~~ the International Registration Plan Act, and the single state insurance registration system pursuant to sections 75-348 to 75-358;

(6) Provide for the issuance of certificates of title to apportioned registered motor vehicles as provided for by subdivision (3)(c) of section 60-106;

(7) Serve as the agent of the Public Service Commission in the filing of proof of insurance by intrastate common, contract, and private motor carriers as prescribed by sections 75-307 to 75-307.03; and

(8) ~~Serve as an agent for the Department of Roads in the issuance of routine permits administered by the Department of Roads. For purposes of this subdivision, routine permit means a permit designated as a routine permit by the Department of Roads pursuant to subsection (5) of section 60-6,298, and~~

~~(9) Carry out such other duties and responsibilities as directed by the Legislature.~~

Sec. 5. Original sections 60-301, 60-354, 60-356, and 75-386, Reissue Revised Statutes of Nebraska, are repealed.